

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of:)	
)	
Improving Public Safety Communications)	WT Docket No. 02-55
In the 800 MHz Band)	
)	
Consolidating the 800 and 900 MHz Industrial/ Land Transportation and Business Pool Channels)	ET Docket No. 00-258
To Allocate Spectrum Below 3 GHz for Mobile)	
And Fixed Services to Support the Introduction of)	
New Advanced Wireless Services, including)	
Third Generation Wireless Services)	
)	
Petition for Rule Making of the Wireless Information Networks Forum Concerning the Unlicensed Personal Communications Service)	RM-9498
)	
Petition for Rule Making of UT Starcom, Inc. Concerning the Unlicensed Personal Communications Service)	RM-10024
)	
Amendment of Section 2.106 of the Commission's Rules to Allocate Spectrum at 2 GHz for Use by The Mobile Satellite Service)	ET Docket No. 95-18
)	
To: The Commission		

REQUEST TO TOLL

The Safety and Frequency Equity Competition Coalition ("SAFE"), an association of certain non-ESMR EA licensees in the frequencies 806 to 824 MHz and 851 to 869 MHz (the "800 MHz Band"),¹ hereby submit this Request to Toll the deadlines established by the Transition Administrator for commencement and conclusion of mandatory relocation

¹ SAFE members include Coastal SMR Network, LLC; A.R.C., Inc. d/b/a Antenna Rentals Corp; Skitronics, LLC; Waccamaw Wireless, LLC; and CRSC Holdings, Inc.

negotiations with Sprint Nextel. For the reasons set forth below, the requested tolling would be in the public interest and would ensure efficient implementation of the rebanding plan set forth by the Commission in its Report and Order, as subsequently modified in the above-captioned proceeding (the “800 MHz Rebanding”). See Improving Public Safety Communications in the 800 MHz Band, Report and Order, 19 FCC Rcd 14969 (2004) (“*Report and Order*”).

The Commission’s recent actions on reconsideration of the *Report and Order* have significantly modified the relocation options available to members of SAFE, *i.e.*, site-specific licenses may be conditionally relocated to the new ESMR band segment. See Improving Public Safety Communications in the 800 MHz Band Consolidating the 800 and 900 MHz Industrial/Land Transportation and Business Pool Channels, Memorandum Opinion and Order, WT Docket 02-55, FCC 05-174 (October 5, 2005) (“*MO&O*”). That *MO&O* is not a “final” order, as it has not yet appeared in the Federal Register; the time for filing petitions for reconsideration or review has not passed; and the time for seeking judicial review of the *MO&O* has not passed. Until the *MO&O* is a final order, SAFE and Sprint Nextel members cannot meaningfully negotiate with the certainty that such relocation negotiations require.

The Transition Administrator established a three-month mandatory negotiation period commencing on September 27, 2005 and concluding on December 26, 2005 for all SMR licensees in the “Wave 1” region. Most SAFE members, by virtue of holding licenses in the Wave 1 region, are subject to this deadline. The remaining SAFE members are subject to later deadlines, for Waves 2 and 3. See “Regional Prioritization Plan of the 800 MHz Transition Administrator,” WT Docket No. 02-55 (filed January 31, 2005). The three-month mandatory negotiation period was ratified by the Commission’s Public Notice, “Wireless Telecommunications Bureau Approves the Basic Reconfiguration Schedule Put Forth in the

Transition Administrator's 800 MHz Regional Prioritization Plan," WT Docket No. 02-55, DA 05-619 (March 11, 2005), and a three-month mandatory negotiation period was established for Wave 2, as ratified in the Commission's subsequent Public Notice, "Wireless Telecommunications Bureau Announces That 800 MHz Band Reconfiguration Will Commence October 3, 2005, In The NPSPAC Regions Assigned To Wave 2," WT Docket No. 02-55, DA 05-2390 (September 2, 2005). The Commission has not yet issued a public notice with respect to the Wave 3 mandatory negotiation period.

The public interest would be served by extending the deadlines for the purposes of providing an opportunity for meaningful mandatory negotiations between non-ESMR EA licensees and Sprint Nextel. Certainty that the new rules are final and not subject to further reconsideration or judicial review, and further clarifications from the Transition Administrator, would further the Commission's goals for such negotiations. SAFE has requested guidance from the Transition Administrator regarding reimbursement of transactional costs. In the *Supplemental Order*, the Commission gave the Transition Administrator flexibility and discretion to change the reconfiguration schedule, but no authority to toll the schedule for limited classes of licensees. Such authority remains with the Commission. See *Improving Public Safety Communications in the 800 MHz Band*, Supplemental Order and Order on Reconsideration, 19 FCC Rcd 25120, 25152 (¶72) (2004) ("*Supplemental Order*").

CONCLUSION

SAFE respectfully requests that the mandatory negotiation periods for non - ESMR EA licensees be tolled until the MO&O has become a final order; and the procedures for mandatory negotiations for these licensees have been clarified by the Transition Administrator.

Respectfully submitted,

SAFETY AND FREQUENCY EQUITY
COMPETITION COALITION

By:

A handwritten signature in black ink, appearing to read "Julian L. Shepard", is written over a horizontal line.

Julian L. Shepard

~~Mark Blacknell~~

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November 11, 2005

CERTIFICATE OF SERVICE

I, Angela C. Spencer, hereby certify that a copy of the foregoing Request to Toll was served this 11th day of November 2005, by first class U.S. mail, postage prepaid, addressed to:

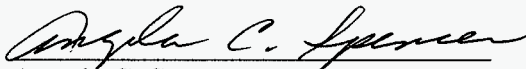
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